IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 30471 of 2007(C)

PETITIONER:

M/S. BIOWEL INC.,
SIBI BHAVAN, PATTOM, SIVARAMAKRISHNA AIYER ROAD,
PLAMOOD JUNCTION, THIRUVANANTHAPURAM,
REPRESENTED BY ITS PARTNER, VARGHESE PAUL.

BY ADV. SRI. ARIKKAT VIJAYAN MENON
SRI. HARISANKAR V. MENON

RESPONDENTS:
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1. **DEPUTY DIRECTOR OF EDUCATION, WAYANAD.**

2. **DEPUTY DIRECTOR OF EDUCATION, PALAKKAD.**

3. **DIRECTOR OF PUBLIC INSTRUCTIONS,**
   THIRUVANANTHAPURAM.

4. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPARTMENT, KERALA GOVERNMENT
   SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

WP(C) No. 30471 of 2007

Dated, this the 24th day of October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Exts.P1 & P2 issued by the 1st & 2nd respondents and to direct the respondents to invite fresh tenders without specifying brand names in accordance with the Store Purchase Manual issued by the Stores Purchase Department.

2. Exts. P1 & P2 are the tender schedules for the supply of science articles, equipments and charts in different schools in Palakkad and Wayanad Districts. On perusal of Exts.P1 & P2, it shows that the respondents have indicated the items recommended along with the brand names. The contention of the petitioner is that specification of brand names is against the provisions contained in paragraph 24(a) (IV) of the Store Purchase Manual.

3. When this writ petition came up for admission before this Court on 15/10/2007, in view of the submissions that were made, particularly in view of the provisions contained in the Store Purchase Manual, this Court directed that further proceedings pursuant to Exts.P1 & P2 can be continued, but final orders will be passed only after obtaining further orders from this Court.

4. Today, on instructions, the learned Government Pleader submits that the Director of Public Instructions had issued a circular on 20/07/2007 indicating that the brand name shall be neutral when bids are invited for supply of various items mentioned in Exts.P1 & P2 and that it is without noticing the instructions of the Director of Public Instructions, that Exts.P1 & P2 were issued specifying brand names.

5. In view of the instructions, that are issued by the Director of Public Instructions, the subordinate officers should have been issued Exts.P1 & P2 only in compliance with those instructions. That apart, the specification of brand name is also against the terms of Store Purchase Manual, which is binding on the respondents. In view of this, I cannot sustain Exts.P1 & P2 with the specification of brand name as contained therein.

6. Accordingly, Exts.P1 & P2 will stand quashed and the respondents are directed to invite fresh tenders in accordance with the directions of the Director of Public Instructions as contained in the circular dated 20/07/2007. This the respondents shall do as expeditiously as possible,

This writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

jg